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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 SOUTHERN DIVISION

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13  
14 ELSA MARIA VILLAESCUSA,  
15  
16 Plaintiff,

17 v.

18 CMRE FINANCIAL SERVICES,  
19 INC.,

20 Defendant  
21  
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Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

COUNT 1: Fair Debt Collection  
Practices Act, 15 USC 1692 et seq.

COUNT 2: Rosenthal Fair Debt  
Collection Practices Act, Cal. Civ.  
Code 1788 et seq.

## **INTRODUCTION**

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2           1.     This is an action for damages brought by Elsa Maria  
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4     Villaescusa (hereinafter "Plaintiff"), an individual consumer, for violations  
5     by CMRE FINANCIAL SERVICES, INC. (hereinafter "Defendant") of the  
6     Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.*  
7  
8     (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15  
9     U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), both of which prohibit debt  
10    collectors from engaging in abusive, deceptive, and unfair practices.  
11

12           2.     In Calif. Civil Code § 1788.1 (a)-(b), the California Legislature  
13     made the following findings and purpose in creating the Rosenthal Act:  
14

15                   (1) The banking and credit system and grantors of credit to  
16                   consumers are dependent upon the collection of just and owing  
17                   debts. Unfair or deceptive collection practices undermine the  
18                   public confidence which is essential to the continued  
19                   functioning of the banking and credit system and sound  
20                   extensions of credit to consumers.  
21

22                   (2) There is need to ensure that debt collectors and debtors  
23                   exercise their responsibilities to another with fairness and  
24                   honesty and due regard for the rights of the other.  
25                   It is the purpose of this title to prohibit debt collectors from  
26                   engaging in unfair or deceptive acts of practices in the  
27                   collection of consumer debts and to require debtors to act fairly  
28

1 in entering into and honoring such debts, as specified in this  
2 title.

3  
4 3. In 15 U.S.C. 1692, the United States Congress made the  
5 following findings and purpose in creating the Fair Debt Collection  
6 Practices Act:  
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8  
9 (a) There is abundant evidence of the use of abusive,  
10 deceptive, and unfair debt collection practices by many debt  
11 collectors. Abusive debt collection practices contribute to the  
12 number of personal bankruptcies, to marital instability, to the  
13 loss of jobs, and to invasions of individual privacy. ...

14  
15 (e) It is the purpose of this title to eliminate abusive debt  
16 collection practices by debt collectors, to insure that those debt  
17 collectors who refrain from using abusive debt collection  
18 practices are not competitively disadvantaged, and to promote  
19 consistent State action to protect consumers against debt  
20 collection abuses.

21  
22 4. Plaintiff makes the allegations below on information and belief,  
23 with the exception of those allegations that pertain to a plaintiff, or to a  
24 plaintiff's counsel, which Plaintiff alleges on personal knowledge.

25  
26 5. While many violations are described below with specificity, this  
27 Complaint alleges violations of the statutes cited in their entirety.  
28

## **JURISDICTION & VENUE**

6. Jurisdiction of this Court arises under 28 U.S.C. § 1331, 15 U.S.C. § 1692k(d), 47 U.S.C. § 227, and pursuant to 28 U.S.C. § 1367 for pendent state law claims, which are predicated upon the same facts and circumstances that give rise to the federal causes of action.

7. This action arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), the Rosenthal Fair Debt Collection Practices Act, CAL CIV CODE § 1788 *et. seq.*, ("RFDCPA"), in their illegal efforts to collect a consumer debt.

8. Venue is proper in this District because the Defendant may be found in this District, and some of the acts and transactions occurred in this District.

## **PARTIES & DEFINITIONS**

9. Plaintiff, Elsa Maria Villaescusa, is a natural person residing in Orange County in the state of California.

10. Plaintiff, as a natural person allegedly obligated to pay a consumer debt to Defendant, alleged to have been due and owing, is therefore both a "consumer" as that term is defined by 15 U.S.C. §

1 1692a(3) of the FDCPA, and is also therefore a “debtor” as that term is  
2 defined by California Civil Code § 1788.2(h) of the Rosenthal Act.

3  
4 11. At all relevant times herein, Defendant, CMRE FINANCIAL  
5 SERVICES, INC., was a company engaged, by use of the mails and  
6 telephone, in the business of collecting a debt from Plaintiff which qualifies  
7 as a “debt,” as defined by 15 U.S.C. §1692a(5), and a “consumer debt,” as  
8 defined by Cal Civ Code § 1788.2(f).  
9

10  
11 12. Defendant is a national debt collection company that  
12 continuously and systematically engages in its business of collecting debts  
13 in the state of California, and using telephone numbers within California.  
14 Defendant is a “debt collector” as that term is defined by 15 U.S.C. §  
15 1692a(6) and Cal. Civ. Code § 1788.2(c).  
16

17  
18 13. Defendant maintains a registered agent, ANDREA L PARR,  
19 and may be served through their registered agent at 3075 E IMPERIAL  
20 HWY. #200, Brea, California 92821.  
21

22 14. Upon information and belief, Defendant was attempting to  
23 collect on a debt that originated from monetary credit that was extended  
24 primarily for personal, family, or household purposes, and was therefore a  
25 “consumer credit transaction” within the meaning of Calif. Civil Code §  
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1 1788.2(e) of the Rosenthal Act, as well as a “debt” as that term is defined  
2 by 15 U.S.C. § 1692a(5).

3  
4 15. Because Plaintiff is a natural person allegedly obligated to pay  
5 money to Defendants arising from what Plaintiff is informed and believes  
6 was a consumer credit transaction, the money allegedly owed was a  
7 “consumer debt” within the meaning of California Civil Code § 1788.2(f) of  
8 the Rosenthal Act.  
9

10  
11 16. Plaintiff is informed and believes that Defendant is one who  
12 regularly collects or attempts to collect debts on behalf of themselves or  
13 others, and is therefore a “debt collector” within the meaning of Calif. Civil  
14 Code § 1788.2(c) of the Rosenthal Act, and thereby engages in “debt  
15 collection” within the meaning of California Civil Code § 1788.2(b) of the  
16 Rosenthal Act, and is also therefore a “person” within the meaning of  
17 California Civil Code § 1788.2(g) of the Rosenthal Act.  
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## 22 **FACTUAL ALLEGATIONS**

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24 17. At various and multiple times prior to the filing of this complaint,  
25 including within the one year preceding the filing of this complaint,  
26 Defendant contacted Plaintiff in an attempt to collect an alleged  
27 outstanding debt.  
28

1           18. On January 26, 2016, Plaintiff sent a written notice advising  
2 Defendant that she disputed the alleged debt owed, that she revoked any  
3 consent to contact by Defendant, and that she was to never be contacted  
4 again by Defendant or anyone affiliated with Defendant any way. A copy of  
5 this written notice is attached hereto as Exhibit A.  
6

7  
8           19. On or about February 1, 2016, Plaintiff sent a written dispute,  
9 pursuant to the Fair Credit Reporting Act ("FCRA"), to Transunion, a credit  
10 reporting agency, disputing the account that Defendant was reporting on  
11 her credit report (the "FCRA dispute"). The FCRA dispute requested that  
12 the account be investigated and removed from her credit report. The  
13 Plaintiff had been the victim of identity theft, and believed that the account  
14 being collected by Defendant was an account incurred through that past  
15 identity theft. A copy of the FCRA dispute advising of the identity theft  
16 possibility is attached hereto as Exhibit B.  
17

18  
19           20. On information and believe, in response to the FCRA dispute,  
20 Transunion requested that Defendant investigate the matter, and provide a  
21 reply to Transunion. In response to the FCRA dispute sent to Transunion,  
22 Defendant advised Transunion that the account was verified. A copy of  
23 the Transunion correspondence advising Plaintiff that the disputed debt  
24 had been verified by Defendant, is attached hereto as Exhibit C.  
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1           21. Defendant has communicated false information to a third party  
2 regarding the alleged debt by reporting the alleged debt on Plaintiff's credit  
3 report with Transunion without indicating that the account is disputed. A  
4 copy of the relevant page of Plaintiff's TransUnion credit report is attached  
5 hereto as Exhibit D.  
6

7  
8           22. Defendant's reporting of Plaintiff's alleged and disputed debt to  
9 TransUnion, a credit reporting agency, is a communication to which the  
10 FDCPA applies.  
11

12           23. Defendant's conduct violated the FDCPA and the RFDCPA in  
13 multiple ways, including but not limited to:  
14

15                   FDCPA § 1692e(8)- A debt collector may not use any false,  
16 deceptive, or misleading representation or means in  
17 connection with the collection of any debt. Without limiting the  
18 general application of the foregoing, the following conduct is a  
19 violation of this section: Communicating or threatening to  
20 communicate to any person credit information which is known  
21 or which should be known to be false, including the failure to  
22 communicate that a disputed debt is disputed.  
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1           24. As a result of the above violations of the FDCPA and the  
2 RFDCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's  
3 feelings, personal humiliation, embarrassment, mental anguish and  
4 emotional distress. Plaintiff attempted to seek counseling and therapy for  
5 the emotional distress and mental anguish described above but was not  
6 able to.  
7

8  
9           25. Defendant is liable to Plaintiff for Plaintiff's actual damages,  
10 statutory damages, and costs and attorney's fees.  
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## 12 13 **CAUSES OF ACTION**

### 14 15 **COUNT I:**

#### 16 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**

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18           26. Plaintiff reincorporates by reference all of the preceding  
19 paragraphs.  
20

21           27. The foregoing acts and omissions of Defendant and its agents  
22 constitute violations of the FDCPA including, but not limited to, each and  
23 every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692  
24 *et seq.*, with respect to Plaintiff.  
25

26           28. To the extent that Defendant's actions, counted above, violated  
27 the FDCPA, those actions were done knowingly and willfully.  
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d) and such further relief as the Court deems just and proper.

**COUNT 2:**

**Rosenthal Fair Debt Collection Practices Act**

- a) For an award in favor of Plaintiff and against Defendant pursuant to the RFDCPA for Plaintiff's actual damages in an amount according to proof;
- b) For an award of statutory damages for willful and negligent violations of the RFDCPA in an amount not less than \$1,000.00;
- c) For an award of Plaintiff's costs incurred in this litigation pursuant to the RFDCPA;
- d) For an award of Plaintiff's reasonable attorney's fees pursuant to the RFDCPA;
- e) And such further relief as the Court deems just and proper.

Dated 18 April 2016.

**M Jones and Associates, PC**  
Attorneys for Plaintiff



Michael Jones

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**JURY DEMAND**

Pursuant to the Seventh Amendment to the Constitution of the United States of America, and Fed.R.Civ.P. 38, Plaintiff is entitled to, and demands, a trial by jury.

Dated this 18 April 2016.

**M Jones and Associates, PC**  
Attorneys for Plaintiff



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Michael Jones



1 7. Except for clearly indicated redactions made by my attorneys where  
2 appropriate, I have not altered, changed, modified, or fabricated any  
3 exhibit that may be attached hereto, except that some of the attached  
4 exhibits may contain some of my own handwritten notations.

5  
6 I declare under penalty of perjury that the foregoing is true and correct.

7  
8 Executed on                      April                      18                      2016  
9    Month                      Day                      Year

10  
11   
12 \_\_\_\_\_  
13 Signature